

# **FREDERICK COUNTY PLANNING COMMISSION**

**April 10, 2013**

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**TITLE:** Horan Residential Cluster Preliminary Plan

**FILE NUMBER:** S-1154, AP 13190 (#13215 APFO)

**REQUEST:** Residential Cluster Preliminary Plan Approval

The Applicant is requesting preliminary plan approval for 45 Residential Cluster lots on a 45.02-acre site.

## **PROJECT INFORMATION:**

**ADDRESS/LOCATION:** Located at the terminus of Winmoor Drive, near Prices Distillery Road  
**TAX MAP/PARCEL:** Map 106, Parcel 6  
**COMP. PLAN:** Low Density Residential  
**ZONING:** R-1 Residential  
**PLANNING REGION:** Urbana  
**WATER/SEWER:** W-5/S-5

## **APPLICANT/REPRESENTATIVES:**

**APPLICANT:** Buckeye Horan, LLC  
**OWNER:** Daniel C. Horan/ Buckeye Horan LLC  
**SURVEYOR/ENGINEER:** Harris, Smariga & Associates, Inc.  
**ARCHITECT:** N/A  
**ATTORNEY:** Rand Weinberg, Esq.

**STAFF:** Tolson DeSa, Principal Planner II

**RECOMMENDATION:** Conditional Approval

## **ATTACHMENTS:**

EXHIBIT 1 - Horan Residential Cluster Preliminary Plan Rendering  
EXHIBIT 2 - APFO Letter of Understanding  
EXHIBIT 3 - Panhandle Modification Justification and Graphic

## ISSUE

## BACKGROUND

## Graphic #1 Site Aerial



**Adjoining Windsor Knolls Subdivision:** Windsor Knolls was granted approval for a 243-lot Residential Cluster Concept Plan in 1990. The FCPC granted Preliminary Plat approval for a 243-lot single-family subdivision in 1991. The development was phased in five sections. Plats for the first four sections were recorded before 1999 and have since had single-family dwellings constructed on them. Sections 1-4 are occupied. Section 5 is partially occupied.

In 1999 the Board of County Commissioners (BOCC) issued a water moratorium that prevented the lots in Section 5 from being recorded. Extensions of the preliminary plat were granted approval only until October 2000, at which time the Preliminary Plat became void due to water inadequacy. Section 5 (32 lots) was re-approved by the FcPc in three stages from 2005-2008 as the water moratorium was incrementally lifted.

**Windsor Knolls Subdivision Road System, in General:** The road system for the adjoining Windsor Knolls development provides a major loop system with several minor cul-de-sacs. The Windsor Knolls development connects to both MD 75 and Windsor Road, roughly opposite the Windsor Middle School. The roads were designed and built with the standard 28' closed-section (rolled curb) design.

Winmoor Drive was planned to extend to the Horan Property. Winmoor Drive was approved as a monumented road with 17.5' closed-section lanes (with rolled curb) and a 10' grass median. A controlled-access design (with some shared driveway locations) was created along Winmoor Drive (in the Windsor Knolls subdivision) in order to facilitate coherent driveway access from the monumented portion of this road. The monumentation was also designed in the Windsor Knolls subdivision to facilitate future development on the adjoining Horan property (subject property) since the Horan Property was unlikely to be developed with a through-movement road to Prices Distillery Road because there is not fee simple access from the Horan tract to Prices Distillery Road.

**The current application is for a 45-lot single family residential subdivision being reviewed as a Cluster Development under 1-19-10.100 through 1-19-10.100.5 of the Zoning Ordinance. Section 1-19-10.100.5 requires:**

- (A) *A Concept Plan is to be submitted to the Planning Commission at least 60 days prior to the Commission meeting at which it is to be considered which shows:*
  - (1) *The type of dwelling unit (single-family, townhouse, garden apartment, etc.) and building restriction lines; and*
  - (2) *Street layout; and*
  - (3) *Green area system; and*
  - (4) *Vicinity map (Scale: no smaller than 1 inch equals 2,000 feet); and*
  - (5) *Topography with minimum 10 foot contours (USGS topographic maps are permitted for the concept plan); and*
  - (6) *Number of acres in the entire tract; and*
  - (7) *Overall dwelling unit density.*
- (B) *If the concept plan is approved by the Commission, the developer will then proceed with platting of the development in accordance with the subdivision regulations.*

This application received Concept Plan approval from the FCPC during their meeting on November 14, 2012.

# ANALYSIS

## A. CLUSTER DEVELOPMENT REGULATIONS

1. **Purpose §1-19-10.100:** *The purpose of cluster development is to provide a method of development that permits variation in lot sizes without an increase in the overall density of population; that allows home buyers a choice of lot sizes according to their needs; that preserves green space, tree cover, scenic vistas, natural drainage ways, or preserves features of outstanding national topography; in order to prevent soil erosion and provide green areas for rest and recreation.*

The cluster plan illustrates a variation in lot size without increasing the overall density. The lots range in size from 10,350 square feet to 24,451 square feet, and the original manor house will remain on a 3.01 acre parcel. Roughly 24.03 acres of the overall site will be owned and maintained as open space by the homeowners association. The majority of the proposed open space consists of open pasture and heavily forested areas within FRO easements.

2. **Districts Where Permitted §1-19-10.100.2:** *In all R Districts, the Planning Commission in approving subdivision plats, may permit modifications in lot area, lot width, yards (building restriction areas) including zero lot lines, or other requirements. Use regulations are governed by the zoning district in which the development is located. Cluster development is not permitted unless public water and public sewer are provided.*

The Applicant is seeking approval of the permitted modifications in lot area; with the exception of Lot 1, none of the remaining 44 lots meet the typical 40,000 square foot lot size requirement for the R-1 zoning district. The lots will meet all other R-1 standards. The subject site is currently designated W-5/S-5 on the Frederick County Water and Sewerage Plan. Public water and sewer will service the site.

3. **Density Determination and Design Requirements §1-19-10.100.3:** *The average dwelling unit density will be no greater than the permitted density for the district in which the units are located. For the purposes of this division, **DENSITY** means the maximum number of dwelling units which could be built on net developable land area in the zoning district. Net developable land is that land remaining after flooding soils areas and rights-of-way for principal highways have been deducted from the gross site area.*

The subject site does not contain flooding soils or principal highways. However, after deducting the proposed open space and the right of way dedication, the net developable area is 41.30 acres (1,800,000 square feet), which permits a density of 45 lots under the standard R-1 dimensional requirements. The Applicant is proposing 45 lots which will not exceed the density permitted by the R1 zoning district for single family residential lots on this site.

4. **Green Area Space Requirements §1-19-10.100.4:** *Reduction of individual lot areas will be reserved as green area. The county may accept the conveyance of the green areas or it shall be conveyed to a nonprofit homeowner[s] association.*

The Applicant is required to provide 23.68 acres of open space; the Applicant is proposing to convey 24.03 acres of open space to the homeowners association. The proposed open space consists of open pasture lands, and heavily forested areas. The Applicant has proposed a 5 foot wide trail system through the HOA open space. The trail system provides residents on the east and west side of the development a circuitous pedestrian travel way.

## **Cluster Development Regulations Findings/Conclusions**

The proposed subdivision will meet all cluster development regulations as provided in section 1-19-10.100 through 1-19-10.100.5 of the zoning ordinance.

### **B. SUBDIVISION REGULATION REQUIREMENTS**

1. **Land Requirements §1-16-217 (A):** *The land use pattern of the Comprehensive Plan and the district regulations of the zoning ordinance shall form the basic theme of the design pattern of the proposed subdivision.*

The proposed land use and subdivision design complies with the Comprehensive Plan and meets Zoning Ordinance requirements.

2. **Land Requirements §1-16-217 (B):** *The subdivision design shall take advantage of the uniqueness of the site reflected by topography, soils, the wooded areas, water bodies and the relationship to adjoining subdivisions and land uses, both proposed and existing.*

The site is primarily grasslands, and relatively flat with the proposed Lot 1 containing the existing farmhouse located at the highest portion of the site. The eastern and western borders contain existing forested areas that are proposed to be protected with FRO easements and incorporate the trail system for the residents.

## **Subdivision Regulation Requirements Findings/Conclusions**

The proposed subdivision will meet the Subdivision Regulations as provided in **Land Requirements §1-16-217 (A) and (B)**.

### **C. ACCESS**

1. **Public Facilities §1-16-12 (B)(3)(b):** *For major subdivisions; Lots must access a publicly-maintained road with a continuously paved surface that is at least 20 feet in width.*

All lots will take access off of the proposed Winmoor Drive (extended) or the proposed Horan Court.

The FCPC granted concept approval of the 45 lot cluster plan, including the proposed panhandle lots at their meeting dated November 14, 2012.

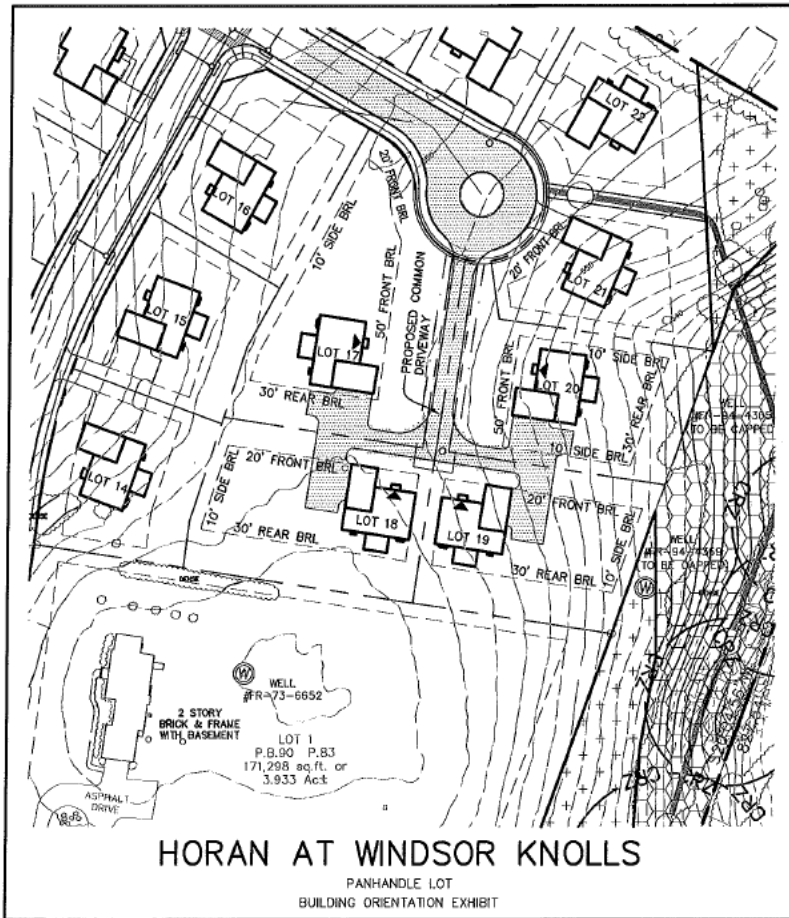
The FCPC will have to approve a modification for any proposed panhandle lots at the time of Preliminary Plan approval. The Applicant has submitted a panhandle modification statement with graphic as attached Exhibit #3

The Subdivision Regulations (1-16-219.c.3) do not allow more than 3 panhandle lots. Lots 18-20 are panhandle lots. Lot 17 is not a panhandle although it will be accessed from the proposed common drive, and face the proposed panhandle common driveway.

The three panhandle lots will take access off of Horan Court via a common driveway serving lots 18-20, a tentative lot and driveway layout is included in the plan set on page 2 of 3, as well as shown in Graphic #2 below. The design below carefully considers the placement of the four houses, building restriction lines, and the use of a common driveway to preclude the possibility of front to back stacking of the proposed homes. In addition, side entry garages provide a better design and more attractive house frontage.



Graphic #2



Horan at Windsor Knolls is to be developed on public sanitary sewer and water. The Applicant states that the need to provide a lot design that sewer by gravity back towards and into the existing Windsor Knolls utilities results in a lot design the is sited on the higher ground and falls within the natural drainage basin.

Located on the highest portion of ground within the Horan tract is the existing 3 acre life estate of David C. Horan. The life estate creates a small segment of ground that can sewer into Windsor Knolls subdivision but cannot be efficiently served by the extension of a public road. There is insufficient width in a north south direction between the life estate and the property line to build another cul-de-sac off of Windmor Drive. Furthermore, limitations on gravity sewer prohibit the placement of the lots further to the east. The Applicant has agreed that all purchasers of the panhandle lots are to be notified of the responsibilities of maintaining the panhandle area and common driveway.

Staff supports the utilization of the common drive with panhandles for Lots 18-20.

## 2. Other Street Requirements §1-16-236.K:

(K) Subdivisions on cul-de-sac or dead end streets shall be permitted only if approved by the Planning Commission (or county staff) in accordance with this division, the Design Manual, and the following provisions, as applicable:

(1) For proposed development on new or existing cul-de-sac or dead end street(s), except existing dead end streets described in subsection (2) below, the following requirements apply:

(a) Applicant must demonstrate the existence of site specific circumstances that make the design and development of a through street practically infeasible.

(b) In the AG and R-1 zoning district, cul-de-sac or dead end street(s) shall not exceed 1,800 feet in length and shall not serve more than 30 lots, dwelling units, or parcels. The Planning Commission may approve development of a greater number of lots and/or on a longer cul-de-sac or dead end street if the Planning Commission considers the individual property characteristics and the goals and principles of § [1-16-234](#) as set forth below in § [1-16-236\(K\)\(1\)\(c\)](#).

Winmoor Drive has long been planned to extend to the Horan Property. Winmoor Drive was approved as a monumented road with 17.5' closed-section lanes (with rolled curb) and a 10' grass median through the section of the Windsor Knolls Subdivision, now in development, with the express purpose of providing the sole access to the site. This is because a potential access with Prices Distillery Road though neighboring properties to the south would have inadequate sight distance and Prices Distillery Road itself is not built to current County standards.

The 45 lots being proposed on this site, in addition to the 11 lots from Windsor Knolls, add up to 56 lots with only one access road, Winmoor Drive. At about 800' into the site from Innsbrook Way/Court, an internal road loop system gives the majority of lots access from two directions. Staff recommends that all 45 proposed lots be permitted as shown on the plan, resulting in a total of 26 lots over the desirable minimum for the following combination of reasons:

1. Adverse topography and land ownership prevents reasonable access to nearby public streets,
2. The dead end street is only practically 800', a thousand feet less than the maximum of 1800', after which the majority of lots have access from 2 directions,
3. Prices Distillery Road is over 1,500' from the closest subdivision street, requires land to be purchased from a neighboring parcel, and does not currently meet road adequacy standards,
4. A monumented entrance is being provided as mitigation, as permitted in section 2.01.10(2) of the Streets and Roads Design Manual, combined with past staff commitments that this would mitigate the dead end system.
5. The existing farm lane will be maintained to provide access to the well site and any HOA/FRO areas for maintenance; be incorporated into the trail system; and provide an emergency access to Prices Distillery as needed.

#### **Access Findings/Conclusions**

The lots within the proposed subdivision will meet all County access requirements.

#### **D. WATER AND SEWER FACILITIES**

1. **Public Facilities §1-16-12 (C):** *The proposed subdivision shall be disapproved unless each building lot has been approved for individual and/or community sewerage and water facilities by the Health Department.*

Horan at Windsor Knolls is to be developed on public sanitary sewer and water, and is approved by the Health Department and DUSWM.

#### **E. OTHER APPLICABLE REGULATIONS**

**Stormwater Management – Chapter §1-15.2:** Stormwater management will be handled by the existing and proposed SWM Facilities in accordance with the 2007 Maryland Stormwater Design Manual.

#### **APFO – Chapter §1-20:**

**Schools:** The Project is projected to generate 11 elementary school students, 8 middle school students and 10 high school students. Based on these numbers and considering enrollment projections from pipeline development, the school adequacy test fails at the high school level. The Developer has chosen the option to mitigate the school inadequacy by paying the School Construction Fees under Section 1-20-62 of the APFO. This Project is eligible to utilize the School Construction Fee option per the criteria set forth in Section 1-20-62 of the APFO. The School Construction Fees shall be paid prior to plat recordation based on the specific fees required by Section 1-20-62(E) at the time of plat recordation, per unit type and the school level(s) to be mitigated.

**Water and Sewer:** The Property is currently classified in the County's S-5 (Dev.), W-5 (Dev.) sewer and water categories.

Sewer service is proposed by extension of gravity sewer lines to convey wastewater to the existing Pleasant Branch WWTP for processing. Existing treatment capacity appears adequate to serve the Project at this time but capacity is not guaranteed until purchased.

The Project will construct adequately sized extensions from the existing water distribution system in Windsor Knolls to serve Horan. Water treatment will be provided at the existing Windsor Knolls WTP. Water system improvements required to support the Horan Property were identified in a water system analysis performed by RK&K dated June 2006 and are as follows:

- Construct 61,000 gallon water Storage facility on Horan Property.
- Upgrade chemical NaF and Na<sub>2</sub>CO<sub>3</sub> feed pumps and feed control system for NaF.
- Connect 3 raw water wells located on the Horan Property to the existing water system. Developer shall amend the existing Water Appropriation and Use permit to account for the addition of these wells.

The developer has the option to update or otherwise amend the report during the Improvement Plan stage. Any revisions to the above captioned improvements shall be approved by the County.

While the public sewer and water facilities are currently adequate (following specified water improvements) to serve the Project, the Applicant is aware that capacity is not guaranteed until purchased. APFO approval for sewer and water does not guarantee that plats will be recorded and building permits will be issued. Plat recordation and building permit issuance is subject to compliance with the Annotated Code of Maryland, Environment Article Section 9-512, et seq. and all applicable County regulations, including but not limited to Sec. 1-16-106 of the Frederick County Subdivision Regulations.

**Road Improvements:** The Project will generate 41 am and 49 pm weekday peak hour trips, which is less than the requisite 50 peak hour trip threshold required for APFO testing. As a result, no traffic impact analysis was performed. The Developer is required to provide fair share contributions to existing escrow accounts per Section 1-20-12(H) and in full satisfaction of APFO requirements to fully mitigate site-generated trips, the Developer shall pay into County-held escrow accounts the following pro rata contributions:

1. MD 80/Ijamsville Road Intersection - the Applicant shall contribute the appropriate pro-rata share to Existing Escrow Account No. 3383 for improvement of this intersection. As determined by DPDR-Traffic Engineering Staff, the Applicant's pro-rata contribution to this road improvement is \$540.
2. MD 80/MD 75 Westbound right turn lane – the Applicant shall contribute the appropriate pro-rata share to Existing Escrow Account No. 3382 for improvement of this intersection. As determined by DPDR-Traffic Engineering Staff, the Applicant's pro-rata contribution to this road improvement is \$6,145.
3. MD 355/MD 75 - the Applicant shall contribute the appropriate pro-rata share to Existing Escrow Account No. 3847 for installation of a new traffic signal. As determined by DPDR-Traffic Engineering Staff, the Applicant's pro-rata share of this road improvement is \$1,203.
4. MD 80/MD 75 - the Applicant shall contribute the appropriate pro-rata share to Existing Escrow Account No. 3854 to modify the existing intersection to provide two eastbound through lanes and one eastbound right turn lane. As determined by DPDR-Traffic Engineering



Staff, the Applicant's total pro-rata contribution to both ramps (eastbound and westbound) is \$14,338.

5. MD 355/Fire Tower Road Intersection - the Applicant shall contribute the appropriate pro-rata share to Existing Escrow Account No. 3288 to provide a roundabout at this intersection. As determined by DPDR-Traffic Engineering Staff, the Developer's proportionate share of this Road Improvement is \$3,609.

Therefore, prior to plat recordation, the Developer hereby agrees to pay \$25,835 to the escrow accounts for these Road Improvements.

**Forest Resource Ordinance – Chapter §1-21:** The Applicant has submitted and received approval for a FRO plan that meets FRO requirements by preserving 3.16 acres of existing forest, and 5.84 acres of afforestation.

<b><i>Other Agency or Ordinance Requirements</i></b>	<b><i>Comment</i></b>
<b><i>Development Review Engineering (DRE):</i></b>	Conditionally Approved.
<b><i>Development Review Planning:</i></b>	Hold. Must meet all agency and FCPC comments and outstanding agency conditions.
<b><i>State Highway Administration (SHA):</i></b>	N/A
<b><i>Div. of Utilities and Solid Waste Mngt. (DUSWM):</i></b>	Conditional Approval
<b><i>Health Dept.</i></b>	Conditional Approval.
<b><i>Office of Life Safety</i></b>	Approved.
<b><i>DPDR Traffic Engineering</i></b>	Conditional Approval
<b><i>Historic Preservation</i></b>	N/A

## **RECOMMENDATION**

Staff has no objection to conditional approval of the Preliminary Plan.

Based upon the findings and conclusions as presented in the staff report the application meets or will meet all applicable Subdivision, Zoning, APFO, and FRO requirements. Should the FCPC grant approval of this application (S-1154, AP 13190). Staff recommends that the following items be added as conditions to the approval:

1. The Applicant shall comply with all Staff and agency comments through the completion of the plan.
2. Approval of the modification to permit three panhandle lots in accordance with Zoning Ordinance Section 1-16-219.
3. The purchasers of the panhandle lots are to be notified of the responsibilities of maintaining the panhandle area and common driveway.

**PLANNING COMMISSION ACTION**  
**MOTION TO APPROVE**

I move that the Planning Commission **APPROVE S-1154 (AP 13190) with conditions** as listed in the staff report for the proposed residential cluster preliminary plan, based on the findings and conclusions of the staff report and the testimony, exhibits, and documentary evidence produced at the public meeting.





**COMMUNITY DEVELOPMENT DIVISION**  
**FREDERICK COUNTY, MARYLAND**  
*Department of Planning and Development Review*  
30 North Market Street • Frederick, Maryland 21701  
www.co.frederick.md.us

**ADEQUATE PUBLIC FACILITIES LETTER OF UNDERSTANDING**

**COMMISSIONERS**

Blaine R. Young  
*President*

C. Paul Smith  
*Vice President*

Billy Shreve

David P. Gray

Kirby Delauter

**COUNTY MANAGER**

Lori L. Depies, C.P.A.

**COMMUNITY  
DEVELOPMENT  
DIVISION**

Eric E. Soter  
*Division Director*

**DEPARTMENT OF  
PERMITS AND  
INSPECTIONS**

Gary W. Hessong  
*Department Director*



**Horan at Windsor Knolls**

*Preliminary Plat #S-1154 AP #13215*

**In General:** The following Letter of Understanding ("Letter") between the Frederick County Planning Commission ("Commission") and Buckeye Horan, LLLP ("Developer"), together with its/their successors and assigns, sets forth the conditions and terms which the Commission deems to be the minimum necessary improvements dealing with school, water, sewer, and road improvements that must be in place for the property identified below to be developed, as proposed under the approved Horan at Windsor Knolls Preliminary Plan of Subdivision (the "Project"), in compliance with the Frederick County Adequate Public Facilities Ordinance ("APFO").

The Developer, its successors and assigns, hereby agrees and understands that unless the required improvements (or contributions to road escrow accounts, as specified below) are provided in accordance with this Letter, APFO requirements will not be satisfied and development will not be permitted to proceed.

This Letter concerns itself with the Developer's 45.0 +/- acre parcel of land, which is zoned Low Density Residential (R-1), and located generally east of MD 75, at the southern extension of Winmoor Drive in the Windsor Knolls Subdivision. This APFO approval will be effective for development of 45 new single family detached homes, which is shown on the preliminary plat for the above-referenced Project, which was conditionally approved by the Commission on April 11, 2013.

**Schools:** The Project is projected to generate 11 elementary school students, 8 middle school students and 10 high school students. Based on these numbers and considering enrollment projections from pipeline development, the school adequacy test fails at the high school level. The Developer has chosen the option to mitigate the school inadequacy by paying the School Construction Fees under Section 1-20-62 of the APFO. This Project is eligible to utilize the School Construction Fee option per the criteria set forth in Section 1-20-62 of the APFO. **The School Construction Fees shall be paid prior to plat recordation based on the specific fees required by Section 1-20-62(E) at the time of plat recordation, per unit type and the school level(s) to be mitigated.**

**Water and Sewer:** The Property is currently classified in the County's S-5 (Dev.), W-5 (Dev.) sewer and water categories.

**Sewer**

Sewer service is proposed by extension of gravity sewer lines to convey wastewater to the existing Pleasant Branch WWTP for processing. Existing treat-



ment capacity appears adequate to serve the Project at this time but capacity is not guaranteed until purchased.

### Water

The Project will construct adequately sized extensions from the existing water distribution system in Windsor Knolls to serve the Project. Water treatment will be provided at the existing Windsor Knolls WTP. Water system improvements required to support the Project were identified in a water system analysis performed by RK&K dated June 2006 and are as follows:

- Construct 61,000 gallon water Storage facility on Horan Property. Final location of this storage shall be approved by the DUSWM.
- Upgrade chemical NaF and  $\text{Na}_2\text{CO}_3$  feed pumps and feed control system for NaF.
- Connect 3 raw water wells located on the Horan Property to the existing water system. The Developer shall amend the existing Water Appropriation and Use permit to account for the addition of these wells.

The Developer has the option to update or otherwise amend the report during the Improvement Plan stage. Any revisions to the above captioned improvements shall be approved by the County.

While the public sewer and water facilities are currently adequate (following specified water improvements) to serve the Project, the Developer is aware that capacity is not guaranteed until purchased. APFO approval for sewer and water does not guarantee that plats will be recorded and building permits will be issued. Plat recordation and building permit issuance is subject to compliance with the Annotated Code of Maryland, Environment Article Section 9-512, et seq. and all applicable County regulations, including but not limited to Sec. 1-16-106 of the Frederick County Subdivision Regulations.

**Road Improvements:** The Project will generate 41 am and 49 pm weekday peak hour trips, which is less than the requisite 50 peak hour trip threshold required for APFO testing. As a result, no traffic impact analysis was performed. The Developer is required to provide fair share contributions to existing escrow accounts per Section 1-20-12(H) and in full satisfaction of APFO requirements to fully mitigate site-generated trips, the Developer shall pay into County-held escrow accounts the following pro rata contributions:

1. MD 80/Ijamsville Road Intersection - the Applicant shall contribute the appropriate pro-rata share to Existing Escrow Account No. 3383 for improvement of this intersection. As determined by DPDR-Traffic Engineering Staff, the Applicant's pro-rata contribution to this road improvement is \$540.
2. MD 80/MD 75 Westbound right turn lane – the Applicant shall contribute the appropriate pro-rata share to Existing Escrow Account No. 3382 for improvement of this intersection. As determined by DPDR-Traffic Engineering Staff, the Applicant's pro-rata contribution to this road improvement is \$6,145.
3. MD 355/MD 75 - the Applicant shall contribute the appropriate pro-rata share to Existing Escrow Account No. 3847 for installation of a new traffic signal. As determined by DPDR-Traffic Engineering Staff, the Applicant's pro-rata share of this road improvement is \$1,203.
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*Horan at Windsor Knolls LOU  
April 11, 2013  
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5. MD 355/Fire Tower Road Intersection - the Applicant shall contribute the appropriate pro-rata share to Existing Escrow Account No. 3288 to provide a roundabout at this intersection. As determined by DPDR-Traffic Engineering Staff, the Developer's proportionate share of this Road Improvement is \$3,609.

Therefore, prior to plat recordation, the Developer hereby agrees to pay \$25,835 to the escrow accounts for these Road Improvements. Should this payment not be made within one year of the execution of this Letter, the County reserves the right to adjust this amount, based on an engineering cost index.

In addition to these off-site escrow account contributions, the applicant shall work with the County in improving the site access at the intersection of Winmoor Drive and Innsbrook Way/Court to assure safe sight distance for residents of Innsbrook Court approaching Winmoor Drive. This improvement shall be guaranteed prior to the issuance of any building permits and in-place prior to the issuance of a Certificate of Occupancy for any residence.

**Period of Validity:** The APFO approval is valid for three (3) years from the date of Commission approval; therefore, the APFO approval expires on April 11, 2016.

**Disclaimer:** This Letter pertains to APFO approval only, and shall not be construed to provide any express or implied rights to continue the development process. The Project remains subject to all applicable rules and regulations, including but not limited to those related to zoning, water and sewer, and subdivision. The Planning Commission's jurisdiction and authority is limited by State and County law, and approvals may be required from other local or state governmental agencies before the proposed development can proceed.

**DEVELOPER: Buckeye Horan, LLLP**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Date: \_\_\_\_\_

**FREDERICK COUNTY PLANNING COMMISSION:**

By: \_\_\_\_\_  
Dwayne E. Robbins, Chair or William G. Hall, Secretary

Date: \_\_\_\_\_

**ATTEST:**

By: \_\_\_\_\_  
Gary Hessong, Director, Permits & Inspections

Date: \_\_\_\_\_

Planner's Initials / Date \_\_\_\_\_  
County Attorney's Office Initials / Date \_\_\_\_\_  
(Approved as to legal form)

*Horan at Windsor Knolls LOU  
April 11, 2013  
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**Horan: Residential Cluster Preliminary Plan**

April 10, 2013  
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Exhibit #3: Horan Residential Cluster Panhandle Modification Statement and Graphic



November 2, 2012

Mr. Tolson DeSa  
Frederick County DPDR  
30 N. Market Street  
Frederick, MD 21701

Re: Horan at Windsor Knolls A/P # 12389 Panhandles

Dear Tolson:

The R-1 Cluster Plan for the Horan at Windsor Knolls subdivision is currently under county review. Three panhandle lots are proposed within this subdivision.

Per section 1-16-219(C)(2) of the Subdivision Regulations, Planning Commission modification approval of three panhandle lots is requested. Lot 17 is technically not a panhandle but will be accessed from, and face the proposed panhandle common driveway. Several unique spatial relationships within the property justify the approval of these panhandles. Horan at Windsor Knolls is a Residential Cluster Subdivision that achieves the creation of lots smaller than the standard R-1 40,000sf minimum lot size with the balance as common open space. This subdivision is to be a continuation of the neighborhood created in the adjacent Windsor Knolls subdivision.

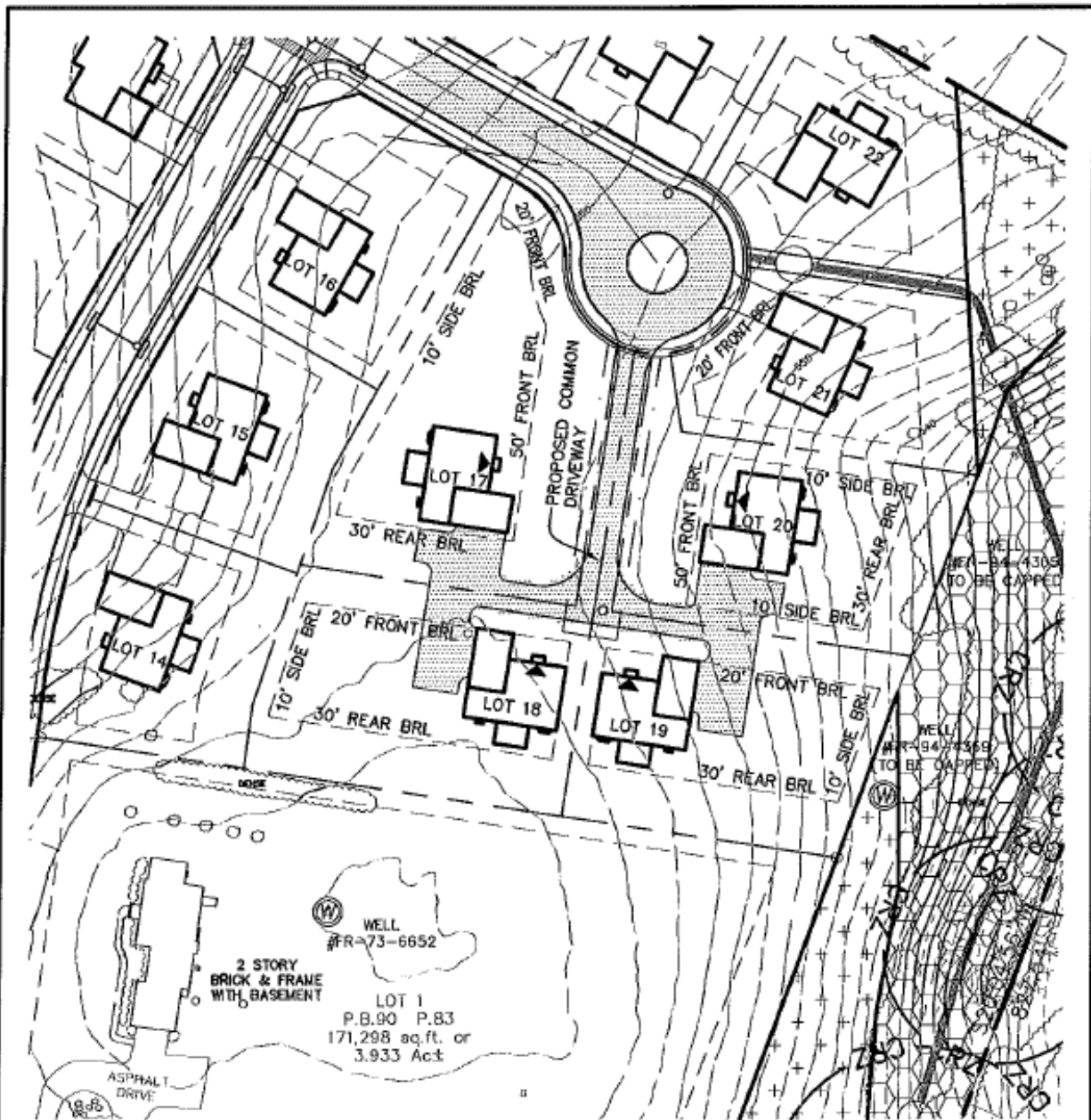
Horan at Windsor Knolls is to be developed on public sanitary sewer and water. The need to provide a lot design that can sewer by gravity back towards and into the existing Windsor Knolls utilities results in a lot design that is sited on the higher ground and falls within the natural drainage basin. Located on the highest ground of the Horan subdivision is the existing 3 acre life estate of Daniel C. Horan which contains an existing large house and established evergreen landscaping. This estate was recorded over a year ago and its location at the top of the hill and its relationship to the original Horan property boundaries establish the location of the proposed public streets. The life estate creates a small segment of ground that can sewer into the Windsor Knolls subdivision but cannot be efficiently served by the extension of a public road. Insufficient width exists in a north south direction between the life estate and the property line to build another cul-de-sac off of Winmoor Drive. Furthermore, limitations on gravity sewer prohibit the placement of the lots further to the east. This natural topographic restriction prohibits opening up the space between lots 17 -20 to permit the extension and placement of the Horan Court cul-de-sac bulb in the area proposed as the common drive. Even if sufficient space were to exist the additional impervious blacktop and future public maintenance necessary for either a new or extended cul-de-sac is not justifiable based on environmental impacts or from the taxpayers fiscal responsibility.

As shown on the attached sketch careful placement of the proposed houses, building restriction lines and the use of a common driveway is proposed to preclude the possibility of front to back stacking of the proposed homes. As shown lots 17 & 20 will have a uniform front building restriction line parallel to the common driveway which allows lots 18 & 19 to face the public cul-de-sac. In addition, the side entry garages provide both design excellence and an aesthetic house frontage. Lastly, it is our understanding based upon feedback we have gotten from the builder, NVR, their customers like panhandle lots when available.

Sincerely,

Samuel Francis Zeller  
Project Manager

Cc: Ed Smariga Buckeye Horan LLC  
T:\6565\Correspondence\PanhandleJustificationletter10.29.12.



## HORAN AT WINDSOR KNOLLS

PANHANDLE LOT  
BUILDING ORIENTATION EXHIBIT

SHEET 1 OF 1

REFERENCE:

Job No.: 6565

**Harris, Smariga & Associates, Inc.**

Planners/Engineers/Surveyors  
125 South Carroll Street, Frederick, MD 21701  
(301) 662-4488



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